

## **CITY COUNCIL AGENDA**

**FEBRUARY 18, 2003**

### **SYNOPSIS**

LINDA J. LE ZOTTE	DISTRICT 1			KEN YEAGER	DISTRICT 6
FORREST	DISTRICT 2			TERRY O. GREGORY	DISTRICT 7
WILLIAMS					
CINDY CHAVEZ	DISTRICT 3	RON	GONZALES	DAVID D. CORTESE	DISTRICT 8
		MAYOR			
CHUCK REED	DISTRICT 4			JUDY CHIRCO	DISTRICT 9
NORA CAMPOS	DISTRICT 5			PAT DANDO, VICE	DISTRICT 10
				MAYOR	

- **Call to Order and Roll Call**  
9:34a.m. - Closed Session, Room 600, City Hall  
**Absent – Council Members –Yeager (excused)**  
  
1:32 p.m. - Regular Session, Council Chambers, City Hall  
**Absent – Council Members – Yeager and LeZotte (excused)**  
  
7:01 p.m. - Public Hearings, Council Chambers, City Hall  
**Absent – Council Members – Yeager (excused)**
- **Invocation (District 2)**  
**The Dynasty Step Team from Santa Teresa High School gave a dance-step performance in honor of African American History Month. The team was instructed by Michael Payne-Alex and led by Step Team Captain, Malika Williams and Santa Teresa High School’s Black Student Union President, Shalandra Taylor.**
- **Pledge of Allegiance**  
**Nicole Alameda from Santa Teresa High School’s Dynasty Step Team led the Pledge of Allegiance.**

- Orders of the Day  
Orders of the Day were approved.

## 1 CEREMONIAL ITEMS

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- 1.1 Presentation of a proclamation declaring February 2003, as *Silicon Valley Reads Month*. (Library)  
**Mayor Gonzales presented a proclamation to Library Director, Jane Light and to Karen Story, with the San Jose Library Foundation. Library Director Light stated that the program's first year was successful and credited the San Jose Library Foundation and the Santa Clara County Office of Education and their partnership with Adobe Software Corporation on the e-Book experimental literacy program. Karen Story thanked the Mayor and City Council for the recognition and invited the audience to visit the program's website, [www.siliconvalleyreads.org](http://www.siliconvalleyreads.org) and to participate in the program.**

## 2 CONSENT CALENDAR

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- 2.1 **Approval of Minutes.**  
None.
- 2.2 **Final adoption of ordinances.**

**Recommendation:** Final adoption of ordinances:

- (a) ORD. NO. 26820 – Amends Section 20.90.150 of Chapter 20.90 of Title 20 of the San José Municipal Code to clarify the conditions under which a conditional use permit for parking facilities can be allowed in residential districts and amending Sections 20.100.400 and 20.100.500 of Chapter 20.100 of Title 20 of the San José Municipal Code to allow the Director of Planning, Building and Code Enforcement to extend the term of development permits through an adjustment.  
**Ordinance No. 26820 adopted.**
- (b) ORD. NO. 26821 – Amends Sections 13.28.130 and 13.28.190 of Chapter 13.28 of Title 13 of the San José Municipal Code, and adds a new Section 13.28.195, to allow licensed contractors to trim, prune, or cut street trees and to allow residents to trim, cut, or prune street trees in emergency situations without the necessity of obtaining a permit from the department of transportation, and to impose, prior to the sale or other transfer of residential real property, notification obligations on the selling or transferring property owner to the purchaser or transferee regarding the condition and existence of street trees on the residential property, to take effect on July 1, 2003.  
**Ordinance No. 26821 adopted.**
- (c) ORD. NO. 26823 – Grants a Commercial Solid Waste and Recyclables Collection Franchise to Environmental Resource Recovery, Inc., DBA Valley Recycling.

**Ordinance No. 26823 adopted.**

- (d) ORD. NO. 26824 – Rezones certain real property situated on the south side of Woodard Road, approximately 150 feet easterly of Starview Drive to A(PD) Planned Development Zoning District. PDC 02-068

**Ordinance No. 26824 adopted.**

- (e) ORD. NO. 26825 – Prezones certain real property situated on the south side of Tully Road approximately 500 feet easterly of Tenth Street to CN Commercial Neighborhood Zoning District. C 02-099

**Ordinance No. 26825 adopted.**

- (f) ORD. NO. 26826 – Rezoning certain real property situated at the southwest corner of Custer Drive and Curtner Avenue (2535 Custer Drive) to A(PD) Planned Development Zoning District. PDC 02-034

**Ordinance No. 26826 adopted.**

**Recommendation:** Final adoption of ordinances:

- (g) ORD. NO. 26827 – Rezoning certain real property situated at the north side of Kinney Drive, approximately 220 feet westerly of North Seventh Street (271 Kinney Drive) to LI Light Industrial Zoning District. C 02-094

**Ordinance No. 26827 adopted.**

**2.3 Approval of open purchase orders for the purchase of supplies, materials, equipment, and services.**

**Recommendation:** Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2002-2003 #23, and authorization for the Director of General Services to execute the purchase orders. CEQA: Refer to memo for CEQA designations. (General Services)

**Approved.**

**2.4 Approval to reject the sole proposal for the removal, transportation, and beneficial reuse of biosolids.**

**Recommendation:** Approval to reject the sole proposal received for the removal, transportation, and beneficial reuse of biosolids, and authorization for the Director of General Services to re-solicit proposals. CEQA: Not a Project. (General Services)

**Approved.**

**2.5 Approval of a sole source purchase for testing equipment for the Water Pollution Control Plant.**

**Recommendation:** Approval of an award for a sole source purchase of one plasma-mass spectrometer to Perkin Elmer Instruments for a total cost of \$176,809.64, including tax and delivery, and authorization for the Director of General Services to execute the purchase order. CEQA: Not a Project. (General Services)

**Approved.**

**2.6 Approval of a sublease agreement for office space with Cisco Systems Inc.**

**Recommendation:** Adoption of a resolution authorizing the City Manager to negotiate and execute a ten-month extension of the sublease agreement with Cisco Systems Inc., for office space on the second floor of the building owned by the Irvine Community Development Company located at 430 N. McCarthy Boulevard, Milpitas, California, at a sublease rate of \$34,450 per month plus prorated utilities. CEQA: Not a Project. (General Services)

**Resolution No. 71411 adopted.**

**2.7 Approval of an appropriation ordinance amendment related to the eBranch Project.**

**Recommendation:** Adoption of an appropriation ordinance amendment in the Library Benefit Assessment District Fund for the eBranch Project in the amount of \$205,000. CEQA: Not a Project. (Library/City Manager's Office)

**Ordinance No. 26834 adopted.**

**2.8 Approval of various ordinance amendments in the Parks and Recreation Bond Projects Fund.**

**Recommendation:**

Adoption of the following appropriation ordinance amendments in the Parks and Recreation Bond Projects Fund:

- (a) Establish a new appropriation for Terrell Park Play Area Renovation project in an amount of \$287,000;
- (b) Increase the Hillview Park Play Area Renovation and Restroom appropriation by \$35,000;
- (c) Decrease the Los Gatos Creek Trail – Lincoln to Auzerai & Willow to Pedro appropriation by \$1,970,000; and
- (d) Increase the Ending Fund Balance by \$1,648,000.

CEQA: Not a Project. (Parks, Recreation and Neighborhood Services/City Manager's Office)

**Deferred to 2/25/03.**

**2.9 Approval to award a contract for the Underground Street Light System for the Oak and Edwards Project.**

**Recommendation:** Report on bids and award of contract for the Underground Street Light System for the Oak and Edwards Project to the low bidder, Pacific Electric Co., in the amount of \$101,900, and approval of a contingency in the amount of \$10,190.

CEQA: Exempt, PP02-08-225. Council District 3. SNI: Washington/Guadalupe. (Public Works)

**Approved.**

**2.10 Approval of an ordinance making technical corrections to the Police and Fire Department Retirement Plan.**

**Recommendation:** Approval of an ordinance amending Chapter 3.36 of Title 3 of the San José Municipal Code to make technical corrections to the provisions of the Police

and Fire Department Retirement Plan relating to plan-approved domestic relations orders. CEQA: Exempt, PP03-01-028. (Retirement Services)

**Ordinance No. 26835 was passed for publication.**

**2.11 Approval of an ordinance relating to monthly benefits for surviving spouses of deferred vested members and non-service disability retirees.**

**Recommendation:** Approval of an ordinance amending Sections 3.36.1640, 3.36.1280, 3.36.1660, and 3.36.1670 of Chapter 3.36 of Title 3 of the San José Municipal Code to provide monthly benefits for deferred vested members who separate from City service on or after February 4, 2000, for surviving spouses of such deferred vested members and for surviving spouses of non-service disability retirees. CEQA: Exempt, PP03-01-030. (Retirement Services)

**Ordinance No. 26836 was passed for publication.**

**2.12 Approval of an ordinance repealing the requirement of Retirement Board approval before a Disability retiree may move out of state.**

**Recommendation:** Approval of an ordinance amending Section 3.36.910 of Chapter 3.36 of Title 3 of the San José Municipal Code to repeal the requirement of Retirement Board approval before an individual under the age of fifty-five and retired for Disability may move out of state. CEQA: Exempt, PP03-01-029. (Board of Administration Police and Fire Retirement Plan)

**Ordinance No. 26837 was passed for publication.**

**2.13 Appointment of two members to the Arts Commission.**

**Recommendation:** Approval of two appointments to the Arts Commission. (Mayor) (Rules Committee referral 2/12/03)

**The appointment of Max Crumley and Dennis Martin to the Arts Commission was approved.**

**2.14 Approval to reject all bids for the River Glen Park New Restroom Building Project.**

**Recommendation:** Report on bids and approval to reject all bids for the River Glen Park New Restroom Building Project and authorization for the Director of Public Works to re-advertise and re-bid the project with a revision in project scope. CEQA: Exempt, PP02-12-365. Council District 6. (Public Works) (Rules Committee referral 2/12/03)

**Rejection of all bids approved.**

**2.15 Approval to reject all bids for the Biebrach Park Play Area Renovation and Restroom Replacement Project.**

**Recommendation:** Report on bids and approval to reject all bids for the Biebrach Park Play Area Renovation and Restroom Replacement Project and authorization for the Director of Public Works to re-advertise and re-bid the project with a revision in project scope. CEQA: Exempt, PP02-09-259. Council District 3. SNI: Gardner. (Public Works) (Rules Committee referral 2/12/03)

**Rejection of all bids approved.**

### 3 STRATEGIC SUPPORT SERVICES

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#### 3.1 Report of the Study Session

**Mayor Gonzales, Chair**

**No Report.**

#### 3.2 Report of the Rules Committee – February 5, 2003

**Vice Mayor Dando, Chair**

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
  - (1) Review February 18, 2003 Draft Agenda  
**The Committee recommended approval of the February 18, 2003 City Council agenda.**
  - (2) Add New Items to February 11, 2003 Amended Agenda  
**The Committee recommended the following addition to the February 11, 2003 City Council agenda.**
  - (3) Staff Reports Outstanding  
**The Committee noted and filed the City Manager's report listing no staff reports outstanding for the February 11, 2003 Council agenda.**
- (c) City Council Committees  
**The Committee directed the Council Committee Chairs to review workplans at the first meeting and refine them as necessary.**
  - (1) Approve Committee Workplans
    - (a) All Children Achieve  
**The Committee recommended approval of the All Children Achieve Committee workplan for the period February through June 30, 2003 and setting its meeting schedule on the second Thursday of each month at 1:30 p.m. in Room 106 (except as noted in the workplan).**
    - (b) Building Strong Neighborhoods  
**The Committee recommended approval of the Building Strong Neighborhoods Committee workplan for the period February through June 30, 2003 and setting its meeting schedule on the third Monday of each month at 1:30 p.m. in Room 204. One special meeting will be held on Wednesday, February 26<sup>th</sup> at 10 a.m. in Room 204.**
    - (c) Building Better Transportation  
**The Committee recommended approval of the Building Better Transportation Committee workplan for the period March through June 30, 2003 and setting its meeting schedule on the first Monday of each month at 1:30 p.m. in Room 204; and**

**directed a Special Meeting changed from February 10, 2003 to a date to be determined.**

- (d) Driving a Strong Economy  
**The Committee recommended approval of the Driving a Strong Economy Committee workplan for the period February through June 30, 2003 and setting its meeting schedule on the second Wednesday of each month at 2:30 p.m. in Room 204.**
- (e) Making Government Work Better  
**The Committee recommended approval of the Making Government Work Better workplan for the period February through June 30, 2003 and setting its meeting schedule on the second Wednesday of each month at 2:30 p.m. in Room 204.**
- (f) Rules Committee  
**The Committee recommended approval of the Rules Committee's workplan for the period February through June 30, 2003 and setting its meeting schedule each Wednesday of the month at 2:00 p.m. in Room 204.**

(d) Meeting Schedules  
**There were none.**

(e) The Public Record  
**There was no Public Record filed.**

- (f) Boards, Commissions and Committees
- (1) Project Diversity Screening Committee  
**The Committee recommended appointment of David Wilkins, District 2, and Victoria Taketa, District 3, for two-year terms ending December 31, 2004; the Committee also recommended that in 2004, when appointments are again made to the Project Diversity Screening Committee, a different format for appointing as well as a different number of members be considered; the Committee directed staff to forward all the remaining nominees to the Mayor's Office, indicating Committee support for appointments from District 5, District 7, and District 9.**

(g) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee  
**There were none.**

(h) Administrative Reviews and Approval  
**There were none.**

(i) Oral communications  
**None were presented.**

(j) Adjournment  
**The meeting adjourned at 2:40 P.M.**

**Rules Committee Report and actions of February 5, 2003 approved.**

**3.3 Report of the Making Government Work Better Committee  
Council Member Campos, Chair  
No Report.**

**3.4 Approval of various actions related to the formation of Community Facilities District No. 10 (Hassler – Silver Creek).**

**Recommendation:** Adoption of the following resolutions in connection with the formation of Community Facilities District No. 10 (Hassler – Silver Creek):

(a) A resolution of intention to form Community Facilities District No. 10 (Hassler – Silver Creek), to authorize the levy of special taxes pursuant to the City of San José Community Facilities District Financing Procedure, to set a public hearing on Tuesday, April 1, 2003 at 1:30 p.m. regarding formation of the District and authorizing other related actions.

**Resolution No. 71412 adopted.**

(b) A resolution of intention to incur bonded indebtedness of the Proposed Community Facilities District No. 10 (Hassler – Silver Creek) pursuant to the City of San José Community Facilities District Financing Procedure in an amount not to exceed \$15,000,000.

CEQA: Resolution No. 64913, PP02-11-347. Council District 8. (Finance/Public Works)

**Resolution No. 71413 adopted.**

**3.5 Approval of changes to the Project Diversity Screening Committee process.**

**Recommendation:** Approval of changes to the Project Diversity Screening Committee process. (Mayor)

(Rules Committee referral 2/12/03)

**Memorandum dated February 13, 2003 from Mayor Gonzales, Vice Mayor Dando, Council Members Campos and Yeager recommending amendments to the Project Diversity Screening Committee was approved.**

## **4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT**

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**4.1 Report of the Building Strong Neighborhoods Committee  
Council Member Chavez, Chair  
No Report.**

**4.2 Report of the Driving a Strong Economy Committee  
Council Member Williams, Chair  
No Report.**

## **5 RECREATION & CULTURAL SERVICES**

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**5.1 Report of the All Children Achieve Committee**



**Council Member Yeager, Chair**  
**No Report.**

**5.2 Approval of various actions related to the Coyote Creek Trail/Selma Olinder Park.**

**Recommendation:**

- (a) Adoption of a resolution:
- (1) Approving a \$425,000 grant from the State Resources Agency for the Coyote Creek Trail/Selma Olinder Park under River Protection and Parkway Grants Projects of the Safe Drinking Water, Clean Water, Watershed Protection and Flood Protection Bond Act of 2000 (Proposition 13);
  - (2) Authorizing the City Manager to negotiate and execute all necessary documents relating to the grant funding agreement.

**Resolution No. 71414 adopted.**

- (b) Appointing the Parks, Recreation and Neighborhood Services Department as the lead agency for the City.

CEQA: Negative Declaration, PP00-10-147. Council District 3. SNI: University/Five Wounds/Brookwood Terrace. (Parks, Recreation and Neighborhood Services)

**Dropped.**

**5.3 Approval of a master agreement for the Coyote Creek Trail Project.**

**Recommendation:** Approval of a master agreement with Royston Hanamoto Alley & Abey, Inc. for design services for the Coyote Creek Trail Project, in an amount not to exceed \$300,000, for an agreement term through December 31, 2006. CEQA: Not a Project. Council District 7. SNI: Tully/Senter and Rockspring. (Public Works)

**Approved. Council Member Chavez suggested to Staff that they encourage communities involved in this project to open communications within the City's community outreach approaches and assist in resolving any issues of the joining SNI communities.**

**5.4 Approval of an agreement for the Guadalupe Creek Trail Master Plan Project.**

**Recommendation:** Approval of a second amendment to the agreement with Callander Associates Landscape Architecture, Inc. for consultant services for the Guadalupe Creek Trail Master Plan Project, extending the term from March 31, 2003 to October 31, 2004, and increasing the total compensation by \$376,200 from \$337,000, for a total agreement amount of \$713,200. CEQA: Not a Project. (Public Works)  
(Rules Committee referral 2/12/03)

**Approved.**

## **6 TRANSPORTATION SERVICES**

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**6.1 Report of the Building Better Transportation Committee**  
**Council Member Cortese, Chair**  
**No Report.**

## **7 ENVIRONMENTAL & UTILITY SERVICES**

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## **8 AVIATION SERVICES**

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## **9 PUBLIC SAFETY SERVICES**

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## **10 JOINT COUNCIL/REDEVELOPMENT AGENCY**

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**Redevelopment Agency Board convened to consider Item 10.1 in a Joint Session at 1:57 P.M.**

### **10.1 Approval of the amendment to the current year Community Development Block Grant Program Action Plan and submittal of Section 108 Loan application.**

**Recommendation:** Adoption of resolutions to:

- (a) Approve an Amendment to the FY 2002-03 Annual Action Plan to include land acquisition, demolition, hazardous materials remediation, and related activities for the Story and King Retail Project located at the southeast and southwest corners of Story and King Roads.
- (b) Authorize the City to submit a HUD Section 108 Loan Guarantee application in the amount of \$18,000,000, and to execute any agreement with the federal government related to the \$2,000,000 Brownfields Economic Development Initiative Grant to assist with the land acquisition, demolition, hazardous materials remediation, and related activities for the Story and King Retail Project.
- (c) Approve a cooperation agreement between the City and the Agency for the purpose of accepting and administering the Section 108 Loan.

CEQA: Negative Declaration, PP02-12-387. (City Manager's Office/Redevelopment Agency)

**Resolution No. 71415 adopted. Noes: Dando (Resolutions Nos. 71416 and 71417 cancelled)**

**Agency Resolution Nos. 5391 and 5392 adopted. Noes: Dando.**

**Adjourned Redevelopment Agency Board portion of the meeting at 2:01 P.M.**

- **Closed Session Report**
- **Notice of City Engineer's Pending Decision on Final Maps**  
In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:  
**None.**

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9477	S/E Fruitdale Ave. and Southwest Expwy.	6	Southwest Expwy. Investors, LP	14	Condominium

- **Open Forum—**

**(1) Ross Signorino spoke on the City's budgetary matters.**

## **11 PUBLIC HEARINGS**

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(Heard by the City Council at 7:00 p.m.)

### **11.1 Public Hearing on conforming conventional rezoning of the property located at 1604 Story Road.**

**Recommendation:** PUBLIC HEARING ON CONFORMING CONVENTIONAL REZONING of the property located on the southeast and southwest corners of Story and South King Roads (1604 Story Road), from CN Neighborhood Commercial and CP Pedestrian Commercial Zoning Districts to CP Pedestrian Commercial and CN Neighborhood Commercial Zoning Districts, to facilitate future development of properties on a 26.7 gross acre site consistent with the City's General Plan. (San José Redevelopment Agency Initiated). CEQA: Resolution No. 64589. Director of Planning, Building, and Code Enforcement and Planning Commission recommend approval (6-0-1).

C 02-088 – Districts 5 and 7

**Ordinance No. 26838 was passed for publication.**

### **11.2 Public Hearing on planned development rezoning of the property located at S. Third and E. Williams Streets.**

**Recommendation:** PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the northeast corner of S. Third and E. William Streets, from R-M Multiple Residence Zoning District to A(PD) Planned Development Zoning District, to allow a 10-bed emergency homeless shelter; a 10-bed residential service facility with two resident staff; a 4,500 square-foot social services agency; a 850 square-foot community center/classroom space; and five multi-family attached residential units on 0.4 gross acre. (City of San José Redevelopment Agency, Owner; Emergency Housing Consortium, Developer). CEQA: Resolution No. 68839.

PDC 02-083 – District 3

**Continued to 3/4/03.**

### **11.3 Public Hearing on conforming planned development rezoning of the property located at 4341 Silver Creek Road.**

**Recommendation:** PUBLIC HEARING ON CONFORMING PLANNED DEVELOPMENT REZONING of the property located at the easterly side of Highway 101, approximately 1,000 feet northerly of Hellyer Avenue (4341 Silver Creek Rd.), from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District, to allow up to 538 single-family detached and attached residences, an 18-hole golf course, and infrastructure on a 579.40 gross acre site. (Cerro Plata Associates, LLC, Owner; William Lyon Homes, Developer). CEQA: Addendum to Cerro Plata Resolution No. 64913. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.  
PDC 03-003 - District 8

**Ordinance No. 26839 was passed for publication.**

- **Open Forum**  
None.

- **Adjournment**  
The Council of the City of San José adjourned at 7:05 P.M.